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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/655,681	09/06/2000	Paul C. Ulrich	12935-1	8969
7590 10/06/2004			EXAMINER	
PAUL C. ULRICH 168B HERITAGE VILLAGE SOUTHBURY, CT 06488			NGUYEN, HAI V	
			ART UNIT	PAPER NUMBER
			2142	

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/655,681

Applicant(s)

ULRICH, PAUL C.

Examiner

Hai V. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2004 and 07 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in communication received on 07 May 2004 and 06 June 2004.
2. Claims 1-24 are presented for examination.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Douglis et al.** US patent no. **6,587,877 B1** in view of **Flockhart et al.** US patent no. **6,563,920 B1**.

5. As to claim 1, Douglis, Management Of Time And Expense When Communicating Between A Host And A Communication Network, discloses a method for managing electronic communications:

recording a direction (*connection*) of a first electronic communication between a first entity and a second entity (*col. 2, line 16 – col. 3, line 35*);

determining a duration required for said second entity to process said first electronic communication (*col. 2, line 63 – col. 3, line 35*);

storing said electronic communication, said direction, said duration, and identities of said first and said second entities in a database with at least one other data record of a second electronic communication (*col. 2, line 16 – col. 3, line 35; col. 4, line 42 – col.*

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5, *line 2*); However, Dougliis does not explicitly disclose establishing a standard duration from said first and said second communications. Thus, the artisan would have been motivated to look into the related networking management arts for potential methods and apparatus for implementing the establishment of standard duration from said first and said second communications.

In the same field of endeavor, Flockhart, related Method And Apparatus For Processing Of Communications In A Call Center Based On Variable Rest Period Determinations, discloses (e.g., rest period of defined duration) that a JIT delivery of work feature is provided in which the precise time of future availability of the agent is determined based on the rest period is used to schedule at least one event prior to delivery of particular communication to that agent (*Flockhart, col. 3, lines 10-25*).

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Flockhart's teachings of the defined duration with the teachings of Dougliis, for the purpose of *providing better achievement in efforts to create equal and reasonable workload and a predefined mix of call* (*Flockhart, col. 8, lines 35-47*). Dougliis also suggests that the server program can be configured to automatically and dynamically set preferences including budgets and time constraints for various means of communications (*Dougliis, col. 2, lines 45-63*).

Dougliis-Flockhart discloses comparing subsequent electronic communications to said standard duration (*Flockhart, col. 7, lines 9-64*), whereby productivity of communicating entities may be determined through electronic communications (*Flockhart, col. 7, lines 9-64*).

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6. As to claim 2, Dougliis-Flockhart discloses, further comprising the step of graphically presenting said first and said second communications (*Douglis, Fig. 4; Flockhart, col. 3, lines 27-39*).

7. As to claim 3, Dougliis-Flockhart discloses, further comprising the steps of: receiving a plurality of user-defined standards (*Douglis, col. 3, lines 12-36*); and alerting a user when a communication violates one of said plurality of standards (*Douglis, col. 3, lines 12-36*).

8. As to claim 4, Dougliis-Flockhart discloses, further comprising the step of reading a message-specific standard duration from metadata of a received electronic communication (*Flockhart, col. 6, line 48 – col. 7, line 64*).

9. As to claim 5, Dougliis-Flockhart discloses, further comprising the steps of: determining a subject matter (*Flockhart, work item*) for each received communication (*Flockhart, col. 6, line 48 – col. 7, line 64*); and storing said determined subject matter in said database in the data record for that electronic communication (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64*).

10. As to claim 6, Dougliis-Flockhart discloses, wherein the step of determining the subject matter further comprises reading subject matter data from said metadata (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64*).

11. As to claim 7, Dougliis-Flockhart discloses, wherein said first entity and said second entity are users and further comprising the steps of: determining for each said user the time applied by that user to a selected subject matter (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64*); and

providing each said user with a rank (*Flockhart, Fig. 3, range*) in response to said time determining step (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64*).

12. As to claim 8, Dougli-Flockhart discloses, further comprising the step of associating said rank with business data (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64; col. 7, lines 47-59; col. 10, lines 61-67*).

13. As to claim 9, Dougli-Flockhart discloses, wherein said electronic communications further comprise telephone calls (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64; col. 7, lines 47-59; col. 10, lines 61-67*).

14. As to claim 10, Dougli-Flockhart discloses, wherein said electronic communications further comprise e-mails (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64; col. 7, lines 47-59; col. 10, lines 61-67*).

15. As to claim 11, Dougli-Flockhart discloses, wherein said electronic communications further comprise video data (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64; col. 7, lines 47-59; col. 10, lines 61-67*).

16. As to claim 12, Dougli-Flockhart discloses, wherein said electronic communications further comprise transferred data files (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64; col. 7, lines 47-59; col. 9, line 50 – col. 10, line 14; 55; col. 10, lines 61-67*).

17. As to claim 13, Dougli-Flockhart discloses, wherein said transferred data files further comprise mixed media data (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64; col. 7, lines 47-59; col. 9, line 50 – col. 10, line 14; 55; col. 10, lines 61-67*).

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18. As to claim 14, Dougliis-Flockhart discloses, wherein said electronic communications further comprise instant messaging (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64; col. 7, lines 47-59; col. 10, lines 61-67*).

19. As to claim 15, Dougliis-Flockhart discloses, wherein said electronic communications further comprise image files (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64; col. 7, lines 47-59; col. 10, lines 61-67*).

20. As to claim 16, Dougliis-Flockhart discloses, wherein said step of establishing a standard duration further comprises establishing said standard duration using the size and data format of the electronic communication (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64; col. 7, lines 47-59; col. 10, lines 61-67*).

21. Claim 17 is corresponding system claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

22. Claims 18-24 have similar limitations of claims 2-8; therefore, they are rejected under the same rationale as in claims 2-8.

Response to Arguments

23. Applicant's arguments filed on 07 May 2004 and 06 June 2004 have been fully considered but they are not deemed to be persuasive.

24. In the remark, Applicant argued in substance that:

Point (A), there is no justification or reason to combine the prior art.

As to point (A), In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the

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claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, "Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Flockhart's teachings of the defined duration with the teachings of Douglis, for the purpose of *providing better achievement in efforts to create equal and reasonable workload and a predefined mix of call (Flockhart, col. 8, lines 35-47)*. Douglis also suggests that *the server program can be configured to automatically and dynamically set preferences including budgets and time constraints for various means of communications (Douglis, col. 2, lines 45-63)*".

Point (B), the prior art does not disclose, "graphically presenting the direction of a standardized duration of communication." in claim 2.

As to point (B), In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., graphically presenting the direction of a standardized duration of communication) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Point (C), the prior art does not disclose, "receiving user-defined standards and alerting the user when a communication for a given direction, based on a standardized measure of duration violates one of pre-determined standards." in claim 3.

As to point (C), In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., receiving user-defined standards and alerting the user when a communication for a given direction, based on a standardized measure of duration violates one of pre-determined standards) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Point (D), the prior art does not disclose, "reading a message-specific standard duration from metadata of a received electronic communication" in claim 4.

As to point (D), Flockhart discloses, reading a message-specific standard duration from metadata (*category*) of a received electronic communication (*Flockhart*, col. 6, line 48 – col. 7, line 64).

Point (E), the prior art does not disclose, "determining a subject matter for each received communication; and storing said determined subject matter in said database in the data record for that electronic communication." in claim 5.

As to point (E), Flockhart discloses, determining a subject matter (*Flockhart*, work item) for each received communication (*Flockhart*, col. 6, line 48 – col. 7, line 64); and

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storing said determined subject matter in said database in the data record for that electronic communication (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64*).

Point (F), the prior art does not disclose, “determining the subject matter further comprises reading subject matter data from said metadata (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64*).” in claim 6.

As to point (F), Flockhart discloses, determining the subject matter further comprises reading subject matter data from said metadata (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64*).

Point (G), the prior art does not disclose, “a communication’s subject matter, nor of deriving a ranking based upon time applied to a particular subject” in claim 7.

Point (G), In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., deriving a ranking based upon time applied to a particular subject) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Point (H), the prior art does not disclose, “a communication’s subject matter, nor of deriving a ranking based upon time applied to a particular subject, nor of said ranking with business data” in claim 8.

As to point (H), Flockhart discloses, associating said rank with business data (*occupancy category*) (*Flockhart, Fig. 3; col. 6, line 48 – col. 7, line 64; col. 7, lines 47-59; col. 10, lines 61-67*).

Point (K), the prior art does not disclose, "electronic communications of telephone calls, of e-mails, and of video data, themselves" in claims 9-11.

As to point (K), in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., electronic communications of telephone calls, of e-mails, and of video data, themselves) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Point (L), the prior art does not disclose, "establishing a standard duration for transferred data files and for transferred data files, comprising mixed-media data" in claims 12, 13.

As to point (L), In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., establishing a standard duration for transferred data files and for transferred data files, comprising mixed-media data) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Point (M), the prior art does not disclose, "image files and instant messaging" in claim 14,15.

As to point (M), Dougliis discloses, "image downloading" (col. 8, lines 42-62) and "page alert" (col. 3, lines 28-35).

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25. Further references of interest are cited on Form PTO-892, which is an attachment to this action.

Conclusion

26. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

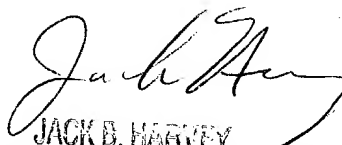
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai V. Nguyen whose telephone number is 703-306-0276. The examiner can normally be reached on 6:00-3:30 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 703-305-9705. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hai V. Nguyen
Examiner
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JACK B. HARVEY
SUPERVISORY PATENT EXAMINER